

## LP PA Judicial Committee

judicial@lppa.org

*Johannes Erharth, Chairman*

*Ryan Bourinski*

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*Richard Schwartz*

February 16, 2022

Members of the Libertarian Party of Pennsylvania:

On January 26, 2022, the PA LP Judicial Committee (JC) was petitioned by member in good standing, Joseph Van Wanger, to interpret a handful of questions through the lens of the LPPA Governing Documents. The JC internally concluded that the questions within the Petition were pertinent to the JC's designated fiduciary duty to members, citing the following authority:

### 1) LPPA CONSTITUTION

ARTICLE IV. ORGANIZATION: Section 4 – Judicial Committee:

*“...The Judicial Committee **shall be the final body of appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party.**”*

ARTICLE VII. THE JUDICIAL COMMITTEE: Section1–Organization:

*“The Judicial Committee shall elect a chair **who shall receive all appeals and petitions and schedule hearings** so as to obtain a quorum of the Judicial Committee...”*

### 2) POLICY MANUAL

VI. JUDICIAL COMMITTEE

*2. The Judicial Committee **shall review any question of non-compliance** with LPPA Constitution, Bylaws, **put forward in writing to the Committee by any LPPA member in good standing to determine the need for committee action.***

The Judicial Committee held a hearing on February 13, 2022, providing the Petitioner and the LPPA membership an opportunity to provide relevant testimony on the matter with the goal of clarifying answers to the questions at hand.

Based on this hearing and our own internal deliberations, the Judicial Committee, under its duty and authority as the *“the Final Body of Appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party”*, provides its interpretations to the petitioned questions as follows.

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Below, the JC presents The Petition as submitted, adjusted in green text with questions numbered and in bold, with the JC's interpretations/rulings following each question indented and in blue text. The member's referenced attachment is included following his signature.

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**---Start of Ruling---**

Dear Judicial Committee,

As a member in good standing of the Libertarian Party of Pennsylvania, I hereby petition the Judicial Committee to hold a hearing on the following questions:

Article IV Section 4 of the Constitution of the Libertarian Party of Pennsylvania states, "The Judicial Committee shall be the final body of appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party".

My questions are:

**1. Can a member of the Board of Directors or its standing or working committees, or any party member publicly declare that they plan to act in the name of the party contrary to any standing ruling of the Judicial Committee?**

Any member is free to say what they want, although the LPPA Constitution is clear that "The Judicial Committee shall be the final body of appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party", subject to the provision that a decision of the Judicial Committee "can be overturned by a three-quarters vote of the members present at a convention".

**2. Can a member of the Board of Directors or its standing or working committees, or any party member act in the name of the party contrary to any standing ruling of the Judicial Committee?**

No. This would be against the general of chain of authority, previously cited.

The members of the LPPA created and evolved the organizational documents to govern members in their current form. They specifically created:

- A member-elected Executive Committee,
- Mechanism for creating a Board of Directors (BOD), over which the Chair presides as the "Chief Executive of the Party"
- Standing and County Committees, and
- A member-elected Judicial Committee (JC).

The JC is designated as "*the Final Body of Appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party*". [Citation provided earlier in this document.] Given the BOD and the Executives are all mandated to adhere to the governing documents for its own operation, and the JC is designated as the final authority for interpretation, acting against a JC's interpretation is functionally acting in conflict with the governing documents and, by chain of such designated authority, out of order.

**3. Can a member of the Board of Directors or its standing or working committees, or any party member usurp in the name of the party the authority of the Judicial Committee regarding final interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party?**

No, as explained in response to Question #2, LPPA Governing Documents permit only the elected JC to act as / with the authority of the JC. No provisions exist for other parties to share or supersede the JC's final authority.

**4. Recently, Jennifer Moore, chair of the Libertarian Party of Pennsylvania, publicly declared as Chair of the party (see attachment), "I do not recognize the authority of the Judicial Committee to rule on hypotheticals," even though the Judicial Committee has ruled multiple times over the past two decades that it has that authority. Does she have the authority to not recognize the authority of the Judicial Committee to rule on hypotheticals, or to refuse to recognize any of its rulings?**

No. While any member is free to disagree with the JC with their own interpretations, the governing documents clearly define the role of the JC as the final authority in providing interpretations thereof and provide no other body or officer with superior or competing final authority.

The LPPA Chair also stated that while she may disagree with the JC, the BOD was free to overrule her by vote, submitting herself to the BOD's authority if they were willing to enforce that ruling. Clearly, if the board were to vote to force the Chair's hand to comply with the JC's interpretations, the BOD has been put in a position of demanding the Chair meet the Chair's obligations. Either way, no provision exists in the Governing Documents that permits the Chair to overrule the JC, nor for the BOD to functionally vacate such rulings if the BOD refuses to press the Chair to comply, and no citations were provided in support of such theory.

The Governing Documents are clear on where that authority solely rests and the hierarchy of command over that authority:

1. With the membership, who has elected its Judicial Committee, whose governing documents state such final authority rests with the JC, per prior citation, and who may replace members of the JC at each convention.
2. With the membership of the LP, who may overturn any JC ruling with  $\frac{3}{4}$  majority vote at convention.
3. With the membership of the LP, a majority of which may vote to clarify or redefine their intent via changes to the governing documents.

Lastly, it should be noted that enforcement of any JC ruling falls to the members of the Party, to either provide the volunteer hours required to make needed corrections, or to replace Party leadership with those more inclined to enforce JC rulings, if that is indeed their preference.

**5. She has also publicly stated as Chair of the party, "I will not entertain such rulings nor take any action on them." Can she refuse to entertain or refuse to take action upon any ruling of the Judicial Committee, or is it her duty as chair to follow them and her responsibility as chair to ensure they are followed?**

The LP is a member-run and defined organization with governing documents regulating its structure and operations. It is conditional that all members, including those of the Executive

Committee, must abide by those governing documents. The governing documents assign the final interpretation of their meaning solely to the JC. Hence, an LPPA Chair serving its members in the authority to which she is accountable, would not refuse to entertain or act on a JC ruling. Remedy for her or any member's disagreement is cited in the prior question.

Note: There exists some nuance on statements made re JC rulings on hypotheticals. An LPPA Chair stating her intent to refuse to honor or enforce such a ruling is technically not yet acting on that intent. Such would transpire only if the hypothetical situation in reference were, thereafter, to actually occur, and then the Chair would, per prior statements, refuse to operate per the JC's ruling. This would include the Chair refusing to honor or enforce such rulings on the presumption the Chair believes his/her own interpretation is a higher authority than the JC, or unless the Board confirms the JC's interpretation by vote to force the Chair into compliance. As stated previously, no such provisions exist (nor have been cited with evidence) granting the Chair or the Board authority to override or further certify JC rulings.

**7. If a member of the Board of Directors or its standing or working committees, or any party member acts on those or similar threats, can that be considered "cause" for disciplinary action under Party rules?**

Potentially. Although members are clearly free to speak their minds, an action or incitement for others to act in such manner by an officer of the LPPA, as an authority in the name of the LPPA, such words and actions could be cause for discipline if the BOD determines they meet the requirements for discipline, per the governing documents.

**Separate questions:**

**8. When recognizing a new county affiliate, I was told by the LPPA chair that the following process must be followed:**

**The first step in organizing a new county is calling an inaugural meeting (with notice) and inviting any Libertarian contacts in the county to participate. At these meetings we go over everything a new affiliate is required to do. Typically paperwork is signed at this first meeting, after which the signatures/membership must be verified by an officer of the party. (Normally the regional vice chair.) The verification process is required for recognition.**

**What is the exact process that must be followed for getting a new affiliate recognized by the LPPA?**

The Bylaws are quite clear on this. Per Article III. COUNTY AND REGIONAL COMMITTEES, [Section 1-Definition of County and Regional Committee](#)

*"Any group of two or more members in good standing residing in the same county, shall, upon their request to the Party be recognized by the Board of Directors as a "County Committee". Any group of two or more members in good standing residing in adjoining unrecognized counties, shall, upon their request to the Party, be recognized by the Board of Directors as a "Regional Committee". At least one member in good standing residing in each county included in the regional committee must sign the request for recognition submitted to the Board of Directors. The county or regional committee must select an executive board consisting of two or more people, and they must choose as their Parliamentary Source any version of Robert's Rules. Individual counties that are part of a*

*regional committee may become a county committee through the submittal of a request for recognition as described. Any remaining counties after such recognition shall continue to be recognized as a regional committee regardless of geographic configuration.”*

The JC has previously elaborated on this question via the Bozzacco Petition hearing, October 2021, which includes citations of the policy manual and referenced documentation. Please refer to that ruling and its citations.

**9. I am also on the membership committee and was informed by both the membership committee chair and the state chair that as a member of the membership committee duly elected by the board of directors, that I am only allowed to have regional access to the CRM. Should all members of the membership committee be granted full access to the LPPA membership data?**

The governing documents are mostly silent on the inner workings of our committees, and that includes specifics on roles for the membership committee and related CRM access, although the Policy Manual Section IX covers general CRM access rules, stressing confidentiality and privacy.

IX. (d) states, “Any standing or working committee volunteer may use The Data within their assigned systems role, as required.”

IX.8. (Limitations on Use) (d) provides similar qualifications for access, providing volunteers access for “the duration of their assigned roles”.

Robert's 50:5 gives standing committees the power to act in a manner that allows the committee to best serve the members of the Party, thus determining “assigned roles” and “as required” falls on the committee. Per Robert’s, committees are permitted to self-govern so long as they are not operating in violation of the governing documents.

Additionally, the BOD is charged with authority over who is assigned to committees, per the governing documents, and hence has indirect authority over any committee’s operations given the BOD’s authority to restaff any committee to align at the BOD’s intent / at the pleasure of the BOD.

Generally: Decisions within a committee should be challenged within committee authority first; if the challenge fails it could then be taken to the Board of Directors. If action is not taken by the BoD, or if the petitioner feels the actions taken by the BoD fails to correct internal committee issues or errors, then appealing the decision to the JC may be appropriate.

However, other than what’s expressly stated in the governing documents, ruling on which members should have what has access to what information is not the authority of the JC.

NOTE: Testimony provided by those handling CRM access cited concerns about too liberal access to membership data that might violate members’ privacy. Further, it was stated that there can be situations for individuals with active restraining orders. It was noted in deliberations that all effort should be made by the BOD to remove individuals who are a threat to others from committee roles and to reconsider the appropriateness of such member’s affiliation with the LP.

It was also noted that overly restrictive rules on CRM access can potentially create inefficiencies or become politicized, although neither the petitioner nor the those providing testimony stated they felt it was politicized when directly asked during hearing. Regardless, this could be rectified with improvements to the Policy Manual and Bylaws.

**(10) Which individuals in the party should be granted full access to the membership data in the LPPA CRM database?**

**Per Bylaws:**

Article IV. Section 3 states that the Secretary “...shall maintain a current list of all members of the Party”. This would imply CRM authority and full access.

Article IX. Section 3 provides for the membership committee and treasurer to have access to confirm credentialing.

**Per policy Manual:**

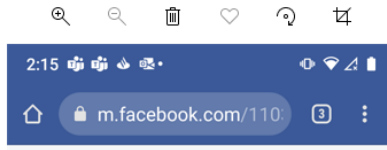
IX. (e) “...In addition, anyone pursuing a position in the state party, or seeking the nomination/endorsement of county, regional, or the LPPA, may be approved by a county or regional committee, or, if it is a statewide request, or a request for an area where there is no active county or regional committee, the LPPA Board of Directors will be responsible for approving or denying such requests.”

IX 8 (b) “Endorsed candidates can use CR Data for the duration of their campaign.”

Otherwise silent, CRM access would seem to be the purview of the committees themselves, as cited in the prior question’s answer, subject to NDA requirements and member privacy discretion.

**Sincerely,**

**Joseph Van Wagner**



**Jennifer Moore LPPA Chairwoman**  
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I am often reluctant to comment on LP inside baseball, but I feel that it is necessary to make a public statement regarding the meeting of the LPPA judicial committee this evening. This is the second such hearing in the past few months.

The prescribed role of the judicial committee is an appellate body. Members can appeal board decisions to ensure they are in compliance with the governing documents of the organization. Unfortunately, a slim majority of the members on this JC have made the decision to take up hypothetical questions, essentially trying to legislate from the bench. First on employment issues, and now on convention rules. Historically, the members who bring these questions then attempt to weaponize the rulings into things like censure motions against internal political rivals. It is ugly, unproductive, outside of procedure, and a waste of everyone's time.

I do not recognize the authority of the judicial committee to rule on hypotheticals. I will not entertain such rulings nor take any action on them. The board is welcome to overturn my decision on this matter with a majority vote.

I will not attend the hearing this evening. It is illegitimate and an inappropriate use of precious volunteer resources. My focus has, and will continue to be on the good work this party is doing, rather than infighting. I am eternally grateful to all of you who helped us win 156 elections, who are doing outreach events, membership drives, and moving this party forward.

**---End Ruling---**

The JC would like to thank all who provided testimony at the hearing and further assisted by providing notes and citations in writing.

### **Relief**

The JC reminds everyone that the LP PA Body (membership/leadership) always has means to rectify any Judicial Committee rulings or interpretations deemed unsatisfactory, as follows:

- 1) Per our governing documents, any JC decision “can be overturned by three quarters members present at a convention”. [CONSTITUTION: ARTICLE IV. ORGANIZATION – Section 4].
- 2) The Bylaws may be updated at Convention to reflect the will of the membership more accurately and clearly, or differently.
- 3) The “Policy and Standing Rules” manual may be formally updated during ordinary LPPA business to reflect the will of the membership more accurately and clearly.

Respectfully submitted,

### **Judicial Committee**

Libertarian Party of Pennsylvania